

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

FEB 27 2002

CLERK, U.S. DISTRICT COURT

JAMAL ELHAJ-CHEHADE,  
Plaintiff,

v.

EDUCATIONAL COMMISSION FOR  
FOREIGN MEDICAL GRADUATES,  
Defendant.

§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO.

3:01-CV-01301-L

**DEFENDANT EDUCATIONAL COMMISSION FOR FOREIGN  
MEDICAL GRADUATES' MOTION TO EXCUSE THE PARTIES FROM MEDIATION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, **THE EDUCATIONAL COMMISSION FOR FOREIGN MEDICAL GRADUATES** ("ECFMG"), Defendant in the above-styled and numbered cause, and files this Motion to Excuse the Parties From Mediation, and in support of same would respectfully show the Court as follows:

**I. FACTUAL BACKGROUND**

The *pro se* Plaintiff Jamal Elhaj-Chehade ("Plaintiff") has sued ECFMG alleging the following causes of action; (1) violation of 501(c)(3); (2) illegal seizure and retention of Plaintiff's property and denial of access to use and contract; (3) emotional distress and alienation; (4) double jeopardy; (5) public nuisance; and (6) interference with the Plaintiff's right to work. Although the Plaintiff's Original Petition is completely absent of facts, ECFMG believes that the Plaintiff is once again alleging that the ECFMG has prevented the Plaintiff from gaining acceptance into a medical residency training program. ECFMG was granted summary judgment on this issue by Judge Boyle on January 4, 2001.<sup>1</sup>

<sup>1</sup> Recently, the Fifth Circuit Court of Appeals dismissed Plaintiff's appeal of the summary judgment as frivolous and has denied his Motion for Rehearing. Additionally, the Fifth Circuit has issued its mandate to the District Court.

31

On September 28, 2001 this Court entered an order that required the parties to mediate this case on or before March 29, 2002. In an effort to comply with this Court's order, counsel for the Defendant has attempted to contact the Plaintiff by telephone regarding mediation no less than three (3) times. Defendant has been unable to communicate with the Plaintiff via telephone. Further, Defendant has contacted the Plaintiff via e-mail regarding this Court's mediation order and the Plaintiff has refused to mediate this case with anyone other than this Court.

Furthermore, the Plaintiff has continued to threaten ECFMG with lawsuits if he does not get what he wants from either the Courts or ECFMG. Recently, the Plaintiff filed a document with the Fifth Circuit Court of Appeals that indicated that if the Court did not grant him the relief sought, he would continue to file lawsuits against ECFMG, its lawyers and the judges (including Judge Boyle) and drag them "into the mud of the court." It is clear that the Plaintiff's only mission in life is to harass ECFMG and attempt to intimidate them into a settlement by threatening additional litigation.

Furthermore, Defendant has made numerous reasonable settlement offers to the Plaintiff, and each has been responded to with a settlement demand in excess of three hundred million dollars. This is no ordinary Plaintiff before this Court, as this Plaintiff has never given any indication that he is willing to be reasonable either as to his claims against ECFMG or his settlement demands.

For all the foregoing reasons, Defendant believes that there is no possibility of settlement and that attending mediation would not be a beneficial use of judicial resources.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendant ECFMG prays that the Court grant this Motion to Excuse the Parties from Mediation, and for such other and further relief to which Defendant ECFMG may show itself to be justly entitled.

Respectfully submitted,

By: 

Susan Abbott Schwartz  
State Bar No. 00797900  
Barry A. Moscowitz  
State Bar No. 24004830

HENSLEE, FOWLER, HEPWORTH  
& SCHWARTZ, L.L.P.  
6688 N. Central Expressway, Suite 850  
Dallas, Texas 75206-3913  
(214) 219-8833  
(214) 219-8866 – Fax

ATTORNEYS FOR DEFENDANT  
EDUCATIONAL COMMISSION FOR  
FOREIGN MEDICAL GRADUATES

**CERTIFICATE OF CONFERENCE**

Counsel for Defendant has personally attempted to conducted a conference at which there was to be a substantive discussion of every item presented to the Court on this Motion. Counsel for Defendant attempted to contact the Plaintiff by telephone three (3) times to discuss every item presented to the Court on this Motion. Further, the Plaintiff has indicated he will only mediate this case before the Court. Therefore, this Motion is presented to the Court for determination.

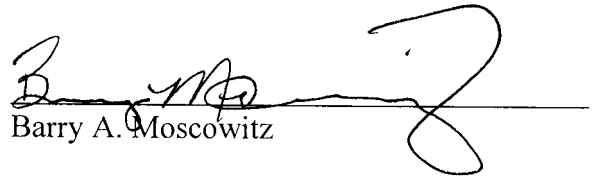
  
Barry A. Moscowitz

**CERTIFICATE OF SERVICE**

The undersigned certifies that on this 27th day of February, 2002, a true and correct copy of the above and foregoing document was served upon the following party appearing *in forma pauperis* of record:

Jamal Elhaj-Chehade  
5414 Cedar Springs, #806  
Dallas, Texas 75235  
(214) 521-7541

*Certified Mail, Return Receipt Requested 7000 1670 0001 6130 1007*

  
Barry A. Moscowitz

K:\35200\01\pldgs\excuse mediation mtn.doc